



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.709 of 2026
a/w CWP Nos.8219 & 11701 of 2026
Reserved on: 21.08.2026
Date of decision: 01.10.2026
Uploaded on: 01.10.2026

1. **CWP No.709 of 2026**
Sahil Thakur & Ors. ...Petitioners.

Versus

State of Himachal Pradesh & Ors. ...Respondents.

2. **CWP No.8219 of 2026**
Charvie Gupta & Ors. ...Petitioners.

Versus

State of Himachal Pradesh & Ors. ...Respondents.

3. **CWP No.11701 of 2026**
Arunika Thakur. ...Petitioner.

Versus

State of Himachal Pradesh & Ors. ...Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?¹ Yes

CWP Nos.709 & 8219 of 2026

For the petitioner(s) : Mr. Shrawan Dogra, Senior Advocate,
with Mr. Yudhvir Singh Thakur, Ms. Oshin

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes

Anand Chauhan and Mr. Rahul Singh Jagota, Advocates, for the petitioner(s), in both the petitions.

For the respondent(s) : Mr. Anup Rattan, Advocate General with Mr. Ramakant Sharma, Additional Advocate General, for the respondents-State, in both petitions.

Mr. Vikrant Thakur, Senior Advocate, with Ms. Supriya Chaudhary, Advocate, vice Mr. Shubham Singh Guleria, Advocate, for respondent-HPPSC, in both the petitions.

CWP No.11701 of 2026

For the petitioner(s) : Mr. Ganesh Barowalia, Advocate, for the petitioner.

For the respondent(s) : Mr. Anup Rattan, Advocate General with Mr. Ramakant Sharma, Additional Advocate General, for the respondents-State.

Mr. Vikrant Thakur, Senior Advocate, with Ms. Supriya Chaudhary, Advocate, vice Mr. Shubham Singh Guleria, Advocate, for respondent -HPPSC.

Vivek Singh Thakur, Judge

For involvement of common questions of law and facts to be adjudicated in these matters, as requested, these writ petitions are being decided by this common judgment. For convenience, the facts and documents are being referred to hereinafter from the lead case, i.e. CWP No.709 of 2026.

2. These writ petitions have been filed for the grant of similar reliefs. The substantive reliefs in CWP No.709 of 2026 read as under:-

- "A. That the engagement of the petitioners may be declared as regular (or contract, as applicable) in the terms of the original advertisement (Annexure P-2) Or Corrigendum(Annexure P-3) issued thereto.
- B. Issue an appropriate Writ, direction or order to declare Section 3 & 8 of H.P. Recruitment and Conditions of Services of Government Employees Act, 2024 Annexure P-4), as unconstitutional for the reasons as is mentioned in the petition.
- C. Issue an appropriate Writ, direction or order to declare guidelines dated 14.05.2025(Annexure P-5) as unconstitutional for the reasons as is mentioned in the petition.
- D. Issue an appropriate Writ, direction or order to declare notification dated 19.07.2025(Annexure P-6) wherein the scheme for engagement as Job Trainees as unconstitutional for the reasons as is mentioned in the petition.
- E. Issue an appropriate Writ, direction or order to declare notification dated 08.09.2025 & 24.11.2025 (Annexure P-8(colly) to the extent mentioned in Ground 3.1, 3.2 & 3.3 hereinabove, as unconstitutional for the reasons as is mentioned in the petition.
- F. Declare that the petitioners' "trainee agreement" is unenforceable to the extent it is founded upon unconstitutional, arbitrary and ultra vires executive actions and was obtained under coercive inequality of bargaining power.
- G. Issue a writ of Certiorari quashing PG/SS Policy 2025 dated 15.10.2025(Annexure P-9) to the limited extent it excludes the Petitioners/Batch merely because they have been labelled "Trainee" by executive action, and/or read it down so as to include the Petitioner for in-service benefits.
- H. This Hon'ble Court may be pleased to issue an appropriate writ, order or direction declaring that the Petitioners are entitled to the benefit of Non-Practicing Allowance (NPA) with effect from the date of their appointment."

3. In prayer clause 'C', petitioners have prayed for declaring Guidelines dated 14.05.2025 (Annexure P-5) as unconstitutional, whereby, referring enactment of the Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (in short '**Employees Act, 2024**'), regarding requisition of vacancies, selection process and offer of appointments, decision taken by Government has been communicated and it has been directed that wherever vacancies have been advertised under the provisions of prevailing relevant Rules, selection process underway, completed, recommendations made and offer of appointment thereof given to the candidates, irrespective of their joining or non-joining, such cases shall be regulated with the terms and conditions enumerated in this communication dated 14.05.2025, whereupon candidates so appointed/to be appointed shall be engaged as trainee and they shall sign an agreement as per Annexure-A appended to these instructions/guidelines as trainee.

4. As a matter of fact, petitioners have also been engaged as trainee Medical Officers, and as a result thereof, they have been disentitled to be considered for various Post Graduation and Super-Specialty courses in medical education applicable in the State of

Himachal Pradesh, known as 'Policy for regulating admissions to various Post Graduation and Super Specialty courses in Medical Education applicable in the State of Himachal Pradesh' (in short '**PG/SS Policy, 2025**').

5. During hearing, on *prima facie* observations of the Court that petitioners may be entitled for regular or contract appointment in terms of the Advertisement dated 04.12.2024 (Annexure P-2), instead of appointment as trainee Medical Officers, it was proposed on behalf of respondent-State by learned Advocate General, that in such eventuality, in case petitioners do not press relief related to declaring the policy decision of the State to engage employees as trainee employees, as unconstitutional, the petitioners shall be considered by the respondents as eligible General Duty Officers ('**GDOs**') under PG/SS Policy, 2025, irrespective of the bar created in the PG/SS Policy, 2025 dated 15.10.2025 (Annexure P-9), which disentitles the GDOs appointed on contract basis after 19.07.2025 to be considered eligible under PG/SS Policy, 2025.

6. In response to aforesaid submissions, learned counsel for the petitioners had submitted that in Notification dated 15.10.2025 (Annexure P-9), notifying the PG/SS Policy, 2025, a bar has been created by providing cut-off date, i.e. 19.07.2025, providing

that only contractual appointees appointed on or before issuance of Notification dated 19.07.2025, shall be eligible to avail the benefit of policy, whereas petitioners have been appointed on 08.09.2025 and 24.11.2025, and thus, unless State decides to consider the petitioners under PG/SS Policy, 2025, the petitioners will not be benefited in any manner, if they do not press the challenge laid to the Policy engaging the employees as trainee employees in the State of Himachal Pradesh.

7. In backdrop of aforesaid factual matrix, on 15.07.2026, matters were adjourned in following terms:-

“Rejoinder to amended reply already stands filed.

Heard in part. Thereafter, matter is adjourned to enable learned counsel for the petitioners as well as learned Advocate General to have complete instructions with regard to all prayers made in the petition and also to produce item No. 5 of CMM meeting dated 31.05.2025, mentioned in Notification dated 19.07.2025 (Annexure P-6).

List for continuation on 20.07.2026.”

8. On 20.07.2026, learned Additional Advocate General had placed on record instructions dated 18.07.2026 along with record, including Notification dated 27.02.2019, whereupon following order was passed:-

“Learned Advocate General has placed on record instructions dated 18.07.2026 along with certified copy of Item No.5 of CMM dated 31.05.2025 of the Government.

Learned Advocate General has also placed on record notification dated 27.02.2019 with submissions that he has instructions to say that in case petitioner(s) are considered as contractual appointees, then notification dated 27.02.2019 shall govern their case and they shall be entitled to be treated as General Duty Officers ('GDOs') in terms of the said notification/policy.

Learned arguing counsel for the petitioner(s) is pre-occupied in another Court. Therefore, as prayed, matters are adjourned for consideration on 22.07.2026."

9. On 22.07.2026, in aforesaid background, following order was passed:-

"During course of hearing, learned counsel for the petitioners submits that, in case respondents consider present petitioners as GDOs in either capacity i.e. regular or contract, for the purpose of various Post-Graduation and Super Specialty Courses in Medical Education, the petitioners shall not press other reliefs, prayed in prayers 'C' to 'G' at this stage, by reserving their rights to avail appropriate remedy for redressal of their grievance, if any, survives.

In response, learned Advocate General seeks one week's time to have complete and clear instructions from the respondents in this regard especially with respect to the eligibility condition for considering petitioners as GDOs, even if petitioners are considered as contract appointees in furtherance to the selection process in reference, for the various Post-Graduation and Super Specialty Courses in Medical Education.

Time as prayed is granted to the learned Advocate General.

List for consideration on 03.08.2026."

10. On 10.08.2026, respondent-State had placed on record instructions dated 07.08.2026, which read as under:-

"I am directed to refer to the subject cited above and to submit that in case the Hon'ble Court allows the claim of the petitioners and treat them as having been appointed on contract basis as per the initial advertisement of the Government instead of Trainees, then their cases can be considered under the PG/SS

Policy dated 27.02.2019 and further superseded by dated 15.10.2025, as in the case of GDO's appointed on contract basis."

11. After placing on record the instructions dated 07.08.2026, following order was passed on 10.08.2026:-

"Learned Additional Advocate General has placed on record instructions dated 7.8.2026 received from Special Secretary (Health) to the Government of Himachal Pradesh, which are vague and cryptic and do not indicate the specific policy under which petitioners, in case are considered to have been appointed on contract basis as per advertisement, shall be governed.

Faced with aforesaid observation, learned Additional Advocate General seeks two days time to have fresh clear unambiguous instructions. Accepting his prayer, matters are adjourned for further orders on 13th August, 2026."

12. On 13.08.2026, instructions dated 12.08.2026 were placed on record by learned Advocate General, and in addition to the instructions, he had also submitted and clarified stand of the State, which was recorded in order dated 13.08.2026.

13. Instructions dated 12.08.2026 (at page 285) read as under:-

"I am directed to refer to the subject cited above and to submit that in case the Hon'ble Court allows the claim of the petitioners and treat them as having been appointed on contract basis as per the initial advertisement of the Government instead of Trainees, then their cases can be considered under the PG/SS Policy dated 15.10.2025, as in the case of GDOs appointed on contract basis.

You are, therefore, requested to apprise the Hon'ble High Court accordingly."

14. Submissions of learned Advocate General, in addition to written instructions, recorded in order dated 13.08.2026 read as under:-

“Learned Advocate General has placed on record fresh instructions dated 12.08.2026. The same are taken on record.

In addition to the aforesaid instructions, he has also submitted that, in case the petitioners are considered to be entitled to appointment on contract basis, then their cases shall be considered as GDOs appointed on contract basis under PG/SS Policy, dated 15.10.2025, irrespective of the rigors of the cut-off date, i.e., 19.07.2025, provided in the said Policy as well as dates of appointments of the petitioners, i.e., 08.07.2025 [sic, 08.09.2025] and 24.11.2025, and they shall be considered at par with GDOs appointed on contract basis prior to 19.07.2025, only for the purpose of PG/SS Policy dated 15.10.2025.

As prayed, list for further consideration and orders on 18.08.2026.”

15. In aforesaid backdrop, arguments were heard on 21.08.2026, and present petitions are being decided accordingly.

16. In view of instructions placed on record and statement of learned Advocate General made at Bar and recorded in the order, petitioners do not press relief ‘C’ to ‘G’ at this stage, reserving their right to avail appropriate remedy for redressal of their surviving grievances, if any. We are adjudicating the remaining prayers.

17. In prayer clause B, petitioners have prayed for declaring Section 3 and 8 of Employees Act, 2024 as unconstitutional.

18. Admittedly, issue with regard to enactment of Employees Act 2024, which has been challenged by the petitioners, has already been adjudicated and decided vide judgment dated 25.04.2026 passed in **CWP No.3361 of 2025**, titled as **Devinder Kumar & Ors. vs State of H.P & Ors. connected matters**, wherein, it has been observed as under:-

“2. In all these petitions, the petitioners are mainly aggrieved by the enactment of the Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (Act No. 23 of 2025) (in short ‘Govt. Employees Act’/the Act/the impugned Act).

3. In this common judgment, we are adjudicating only the constitutionality, validity, and legality of the Govt. Employee Act. For other reliefs, the consequences shall follow accordingly, and in case any further relief(s) is/are required to be determined after adjudication of additional facts, not discussed or adjudicated or covered in this judgment, the petitioners shall be at liberty to avail appropriate remedies, including the filing of fresh petitions for redressal of grievance based on such other issues raised or not raised in these petitions.

.....
202. Accordingly, in view of above discussion and considering the ratio of law laid down by the Apex Court, the impugned Act is quashed and set aside.

203. In view of quashing of the impugned Act, all consequential action, omission and commission of the respondents-State and its functionaries, based on the impugned Act, are declared illegal, unconstitutional and nullify, and resultantly orders/rejection/directions, withdrawal, denying benefits or proposing recovery of already granted reliefs, based on the impugned Act, in conflict with the mandate of the Court are also quashed and set aside and competent authority(ies) is directed to ensure extension of benefits to the employees in terms of judgments passed by the competent Courts, latest by three months from today by issuing appropriate orders, if so required, in consonance with the Constitutional mandate and verdict of the Court(s).”

19. The aforesaid judgment has been affirmed by the Apex Court by dismissing the SLP preferred by the State, i.e., **SLP(C) No.24885 of 2026**, titled '**State of Himachal Pradesh vs. Devinder Kumar & Others**', vide order dated 29.07.2026.

20. Therefore, as agreed, finding returned in **CWP No.3361 of 2025** titled **Devinder Kumar & Ors. vs. State of H.P. & Ors.** shall be applicable *mutatis mutandis* to present matter to all intents and purposes on the issue related to Employees Act, 2024.

21. Accordingly, any plea taken by respondents on the basis of Employees Act 2024, is rejected.

22. In view of above, Sections 3 and 8 of the Employees Act, 2024 are not in existence as on date, being declared to be unconstitutional with the observation that the reasonings and grounds assigned for quashing the Employees Act, 2024 in CWP No.3361 of 2025 shall apply *mutatis mutandis*, prayer clause 'B' stands allowed.

23. Consequent to quashing of Employees Act, 2024, any direction or Policy/Scheme, including communication dated 14.05.2025 (Annexure P-5) and Notification dated 19.07.2025 (Annexure P-6), promulgating appointment as Job Trainee cannot

be made basis for engaging petitioners as Job Trainee, as the said communication/Policy/Scheme is not enforceable to the petitioners.

24. With regard to the prayers 'A' and 'H', it is apt to record that respondent-State, exercising power conferred by proviso to Article 309 of the Constitution, has framed the Himachal Pradesh Medical Civil Services, Medical Officers Class-I, (Gazetted) Recruitment and Promotion Rules, 2012 (in short '**R&P Rules, 2012**'), vide Notification dated 09.03.2012, placed on record as Annexure P-1, which under Rule 10 provides the method of recruitment as under:-

"10. Method of recruitment whether by direct recruitment or by promotion, secondment, transfer and the percentage of vacancies to be filled in by various methods:

(i) 100% by direct recruitment on a regular basis or by recruitment on contract basis as the case may be. The contract employees will get emoluments as given in Col.15-A and will be governed by the service conditions as specified in the said column."

25. In the year 2024, on the basis of requisition sent by Health and Family Welfare Department of Himachal Pradesh, the HP Public Service Commission issued Advertisement No.27/12-2024 on 04.12.2024 (Annexure P-2), with closing date for application and for payment of fee as 31.12.2024 (11:59 PM), whereby online applications were invited from desirous and eligible candidates for

recruitment to 200 posts (bifurcated into various categories) of Medical Officer (General Wing).

26. Before expiry of last date for submission of online applications, on the basis of instructions imparted by the respondent-State (Health and Family Welfare Department), the HP Public Service Commission issued Corrigendum dated 10.12.2024 (Annexure P-3), whereby it was notified for information of all concerned that word "Medical Officer (General Wing)" appearing in last line of Para 1 of the detailed Advertisement dated 04.12.2024 may be read as "Medical Officer (General Wing), Class-I, (Gazetted) on contract basis". Other terms and conditions of the Advertisement remained unchanged.

27. Process of recruitment in pursuance to the aforesaid Advertisement was completed by the HP Public Service Commission, and vide Press Note dated 20.08.2025 (Annexure P-7), the Commission published details of successful candidates in order of merit, recommending them for appointment against the respective posts as per their category. Petitioners were amongst the successful candidates.

28. R&P Rules provided direct recruitment either on regular basis or on contract basis. Initially, Advertisement was issued for filling up posts of Medical Officers (General Wing) without specifying the nature of the appointment, and in absence of mention of contract appointment, the Notification inviting applications has to be considered a Notification calling applications for regular appointment of Medical Officers.

29. However, before expiry of time to submit applications, a corrigendum was issued by clarifying that the recruitment, on the basis of selection, in pursuance to the aforesaid Notification of Medical Officers (General Wing), shall be on contract basis.

30. Thus, process for appointments of Medical Officers, initiated for regular appointment, but later on clarified that recruitment of Medical Officers shall be on contract basis, has been completed by the HP Public Service Commission on 20.08.2025.

31. PG/SS Policy, 2025 was notified vide Notification dated 15.10.2025 (Annexure P-9), wherein, in clause 4.1, contractual candidates appointed before 19.07.2025 were declared to be eligible to continue to avail the benefit of the Policy. Petitioners have been appointed on 08.09.2025 and 24.11.2025.

32. It is more than settled that rule of the game cannot be changed midstream. Once process was initiated for appointment of Medical Officers in terms of the R&P Rules, either on regular basis or on contract basis, on culmination of the said process, selectee candidates cannot be offered appointment of the nature other than the nature of appointment notified/advertised. The course available with the State was to cancel the selection process initiated in 2024 and to re-initiate process for appointment of Medical Officers in terms of fresh valid policy decision, but it has not been done in present case.

33. Though initially Advertisement was for regular appointment, later on it was clarified that appointment shall be on contract basis. It was done before last date of submission of application. Therefore, corrigendum issued by the respondent-Department to make appointment on contract basis cannot be said a change in the rule of the game midstream, but it is before expiry of the last date, and in terms of provisions of R&P Rules, respondent-State was free to choose to make the appointment on regular basis or on contract basis, and therefore, corrigendum has to be considered as a clarification of the original Notification, and thus,

petitioners can have claim at least for contractual appointment instead of engagement as trainee officers.

34. Process was initiated in 2024, completed in August 2025, much before issuance of Notification dated 15.10.2025 notifying PG/SS Policy. The appointments to the petitioners were not offered either on account of laxity on the part of the Department or deliberately to avoid their contractual appointment to debar them from the benefits of such appointment. The issuance of communication dated 14.05.2025 (Annexure P-5) and Notification dated 19.07.2025 (Annexure P-6) as well as Notification dated 15.10.2025 (Annexure P-9) debarring the contractual appointees appointed after 19.07.2025 from availing benefit of the said policy, shall not come in the way of the petitioners to get the benefit of contract appointment for all intents and purposes as were available to the appointees appointed prior to 14.05.2025/19.07.2025, and thus, cut-off date 19.07.2025 provided in PG/SS Policy is also not applicable to the petitioners.

35. Probably visualizing the said exposition of law and the service jurisprudence, the respondents have agreed to consider the petitioners eligible under PG/SS Policy dated 15.10.2025 like GDOs

appointed on contract basis, eligible for benefit of the said policy in terms of the said policy, especially clause 4.1 thereof.

36. In view of above discussion, including the instructions imparted by the respondent-State taken on record during pendency of the petition, as well as submissions and clarifications made by learned Advocate General at Bar, we allow these petitions in following terms:-

- (i) Petitioners shall be considered to have been appointed on contract basis in consonance with the R&P Rules framed by the State (Himachal Pradesh Medical Civil Services, Medical Officers (Class-I, Gazetted) Recruitment and Promotion Rules, 2012, Annexure P-1) with all consequential benefits attached to such appointment declared admissible to such contract employees from time to time by the State as well as Courts.
- (ii) Petitioners shall be entitled to be considered as eligible GDOs for availing the benefits of PG/SS Policy, 2025, as the case may be, and shall be entitled for all benefits admissible and permissible

to other contract employees eligible under the said Policy.

37. Needless to say, petitioners shall also be entitled to get benefit of Non-Practicing Allowance (NPA) with effect from the date of their initial appointment, if it was or is admissible and payable to other Medical Officers appointed, similarly also to all consequential benefits flowing from their contract appointment.

38. As submitted and agreed, petitioners shall have the right to avail appropriate remedies for redressal of their surviving grievances, including remaining grievances referred to in prayer clauses, especially clauses 'C' to 'G' in the present petitions.

39. These petitions stand disposed of along with pending miscellaneous application(s), if any, in aforesaid terms.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

1st October, 2026
(Pardeep)